

ATTORNEY NAME
Pitnick & Margolin, LLP
165 Eileen Way, Suite 101
Syosset, NY 11791
516-921-3838

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Hearing Date: August 28, 2013
Hearing Time: 10:00AM

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IN RE:

CASE NO.: 12-12020
CHAPTER: 11

RESIDENTIAL CAPITAL, LLC, et al.

JUDGE: MARTIN GLENN

Debtor,
-----X

**NOTICE OF MOTION FOR
RELIEF FROM THE AUTOMATIC STAY**

SIRS:

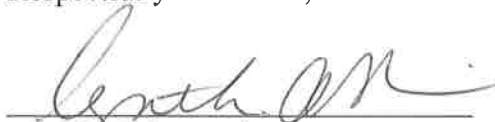
PLEASE TAKE NOTICE that Bank of America, N.A. ("Movant") seeks relief from the automatic stay as to the property located at 1158 Date Street, Fairborn, OH 45324, and will move before the Honorable Martin Glenn, United States Bankruptcy Judge in the United States Bankruptcy Judge in the United States Bankruptcy Court for the Southern District of New York located at One Bowling Green, New York, NY 10004 on August 28, 2013 at 10:00 AM, or as soon thereafter as counsel may be heard for an Order:

1. Pursuant to Bankruptcy Rule 4001 and 11 U.S.C. §105(a) and 11 U.S.C. §362(d)(1), granting Movant, its successors and/or assigns, relief from the automatic stay as to Movant's interest in real property known as 1158 Date Street, Fairborn, OH 45324; and
2. Granting waiver of the stay invoked pursuant to F.R.B.P. 4001(a)(3); and
3. Granting Movant such other and further relief as is just and proper under the circumstances of this case.

**PURSUANT TO LOCAL BANKRUPTCY RULE 9006-1(a), ANY ANSWERING
PAPERS ARE TO BE SERVED SO AS TO BE RECEIVED BY THE SECURED
CREDITOR'S COUNSEL NO LATER THAN 7 DAYS BEFORE THE HEARING
DATE.**

Dated: July 16, 2013
Syosset, New York

Respectfully submitted,



By: Cynthia A. Nierer, Esq.
Pitnick & Margolin, LLP
Attorneys for Movant
165 Eileen Way, Suite 101
Syosset, New York 11791
516-921-3838

TO:
Stefan W. Engelhardt, Esq.
Morrison & Foerster LLP
Attorneys for Debtor
1290 Avenue of the Americas
New York, NY 10104

Yvette R. Freedman, Esq.
John Peter Lee
Attorneys for Debtor
830 Las Vegas Boulevard South
Las Vegas, NV 89101

Seth Goldman, Esq.
Munger, Tolles & Olson, LLP
Attorneys for Debtor
355 South Grand Avenue
Suite 3500
Los Angeles, CA 90071-1560

Todd M. Green, Esq.
Morrison & Foerster LLP
Attorneys for Debtor
1290 Avenue of the Americas
New York, NY 10104

Joel C. Haims, Esq.
Morrison & Foerster LLP
Attorneys for Debtor
1290 Avenue of the Americas
New York, NY 10104

Gary S. Lee, Esq.
Morrison & Foerster LLP
Attorneys for Debtor
1290 Avenue of the Americas
New York, NY 10104

Lorenzo Marinuzzi, Esq.
Morrison & Foerster LLP
Attorneys for Debtor
1290 Avenue of the Americas
New York, NY 10104

Lorraine S. McGowen, Esq.
Orrick, Herrington & Sutcliffe LLP
Attorneys for Debtor
51 West 52nd Street
New York, NY 10019

Larren M. Nashelsky, Esq.
Morrison & Foerster LLP
Attorneys for Debtor
1290 Avenue of the Americas
New York, NY 10104

David A. Pietra, Esq.
Attorney for Debtor
1177 Avenue of the Americas
New York, NY 10036

Anthony Princi, Esq.
Morrison & Foerster LLP
Attorneys for Debtor
1290 Avenue of the Americas
New York, NY 10104

Steven J. Reisman, Esq.
Curtis, Mallet-Prevost, Colt & Mosle LLP
101 Park Avenue
New York, NY 10178

Norman Scott Rosenbaum, Esq.
Morrison & Foerster LLP
Attorneys for Debtor
1290 Avenue of the Americas
New York, NY 10104

Kayvan B. Sadeghi, Esq.
Morrison & Foerster LLP
Attorneys for Debtor
1290 Avenue of the Americas
New York, NY 10104

Debra Weinstein Minoff, Esq.
Loeb & Loeb LLP
Attorneys for Trustee
345 Park Avenue
New York, NY 10154

United States Trustee
Office of the United States Trustee
U.S. Federal Office Building
201 Varick Street, Room 1006
New York, NY 10004

UNITED STATES BANKRUPTCY COURT
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AFFIRMATION IN SUPPORT GRANTING RELIEF FROM THE AUTOMATIC STAY

Bank of America, N.A. (Movant) by and through its attorneys, Pitnick & Margolin, LLP, is seeking an Order vacating the automatic stay pursuant to 11 U.S.C. §362(d) nunc pro tunc as of May 14, 2012, and in support thereof, states as follows:

Cynthia A. Nierer, Esq., an attorney at law duly admitted to practice before this Court and the Courts of the State of New York, hereby affirms the following to be true under penalty of perjury:

I. RELIEF REQUESTED

1. This is a contested matter brought pursuant to Federal Rules of Bankruptcy Procedure 4001 and Sections 362(d)(1) and (2) of Title 11 of the United States Code (the “Bankruptcy Code”), for an Order: (i) modifying and terminating the automatic stay to permit Movant to exercise all of its rights and remedies with respect to certain collateral known as 1158 Date Street, Fairborn, OH 45324 (the “Premises”), (ii) granting waiver of the stay invoked pursuant to F.R.B.P. 4001(a)(3); and (iii) granting Movant such other and further relief as the Court deems just and proper.

II. BACKGROUND

2. Movant is the holder of a Note and Mortgage, dated October 28, 2005, given by Michael M. Hayes to Countrywide Home Loans, Inc. in the original principal amount of \$88,314.00 pledging the Premises as security. Copies of the Note and Mortgage and Assignments of Mortgage, if any, are annexed hereto as Exhibit "A". Bank of America, N.A., (Movant) is successor by merger to BAC Home Loans Servicing, L.P., f/k/a Countrywide Home Loans Servicing, L.P.

3. The mortgage is in default under the terms of the Note and Mortgage and Movant commenced an action to foreclose in the Court of Common Pleas, Greene County, State of Ohio on May 1, 2012. A copy of the first page of the filed pleadings is annexed hereto as Exhibit "B".

4. On or about May 14, 2012, the Debtor filed with the Clerk of this Court a petition for relief under Chapter 11 of the Bankruptcy Code and pursuant thereto an automatic stay was imposed.

5. A foreclosure title search indicates that there is a junior lien on the Premises held by GMAC, LLC in the original amount of \$9,527.95. A copy of the requisite portion of the foreclosure search showing the specifics of said lien is annexed hereto as Exhibit "C".

6. As of July 16, 2013, there is due and owing to Movant the unpaid principal sum of \$84,324.21.

7. As per the BPO, annexed hereto as Exhibit "D", the fair market value of the Premises is \$45,000.00.

8. Upon information and belief, Movant's claim against the Premises exceeds the value of the property and, therefore, Debtor has little to no equity in the Property.

9. Upon information and belief, Debtor's junior lien adds little or no value to the bankruptcy

estate and, therefore, the Premises is not necessary to the reorganization of the Debtor.

10. 11 U.S.C. §362(d) provides in pertinent part that the Court shall grant relief from the stay imposed by Section 362(a)

- (1) "for cause, including lack of adequate protection of an interest in property..."
- (2) "with respect to a stay of an act against property under subsection (a) of this section, if-
 - (A) the debtor does not have an equity in such property, and
 - (B) such property is not necessary to an effective reorganization.

11. It is respectfully submitted that good cause exists to vacate the automatic stay of 11 U.S.C. §362 to allow Movant to pursue its rights under the Mortgage and applicable law, including, without limitation, the commencement, continuation and consummation of a foreclosure action and/or eviction proceeding.

12. It is respectfully requested that the fourteen (14) day stay of the proposed order imposed by FRBP §4001(a)(3) be hereby waived.

WHEREFORE, Movant respectfully requests that an Order be granted modifying the automatic stay as to it, its successors and/or assigns, permitting maintenance of mortgage foreclosure and eviction proceedings with respect to the subject property; granting waiver of the stay invoked pursuant to F.R.B.P. 4001(a)(3); and for such other and further relief as this Court may deem just and proper.

Dated: July 16, 2013
Syosset, New York

Respectfully submitted,



Pitnick & Margolin, LLP

BY: Cynthia A. Nierer, Esq.

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